

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXX**

**Petitioner**

**v**

**US Health and Life Insurance Company**  
**Respondent**

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**File No. 89177-001**

**Issued and entered**  
**this 23rd day of June 2008**  
**by Ken Ross**  
**Commissioner**

**ORDER**

**I**

**PROCEDURAL BACKGROUND**

On April 15, 2008, XXXXX authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on April 22, 2008.

The Commissioner notified US Health and Life Insurance Company (USHL) of the external review and requested the information used in making its adverse determination. The company provided initial information on April 18, 2008, and additional information on April 24, 2008.

The issue here can be decided by an analysis of the Employee Certificate of Group Insurance Coverage (the certificate), the contract that defines the Petitioner's health care benefits, and applicable Michigan law. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

## **II FACTUAL BACKGROUND**

On November 20, 2007, the Petitioner purchased a lift chair that was prescribed by his doctor. The base cost of the chair was \$899.95 plus tax, extras, and delivery.

USHL denied coverage for the Petitioner's lift chair. The Petitioner appealed. USHL reviewed the claim but upheld its denial. A final adverse determination was issued dated March 20, 2008.

## **III ISSUE**

Is USHL required to provide coverage for the Petitioner's lift chair?

## **IV ANALYSIS**

### **Petitioner's Position**

The Petitioner states that in 2004 his wife purchased a lift chair and it was paid under her USHL health insurance plan. Yet when he purchased a lift chair in 2007 USHL has denied payment, in spite of the fact that his condition is worse than his wife's when she received her chair. His legs and feet are very bad and he has dressings that require changing every day.

The Petitioner argues that it is medically necessary for him to have a lift chair and therefore, it should be a covered benefit under his USHL policy.

### **USHL Position**

The certificate (page 27) says the following is covered:

39. Medical supplies and treatment, home and office supplies visits by a physician and other medical care as deemed Medically Necessary for the treatment of and [sic] illness or injury.

USHL reviewed the information provided and determined that the Petitioner's lift chair was not a covered benefit since it was not medically necessary for treatment of an illness or injury. USHL indicated that it uses many sources of information when considering claims, including

Medicare policies. According to USHL, Medicare will pay for the seat lift mechanism on a lift chair if the following criteria are met:

- The patient must have severe arthritis of the hip or knee or have a severe neuromuscular disease.
- The seat lift mechanism must be part of the physician's course of treatment and be prescribed to effect improvement, or arrest or retard deterioration in the patient's condition.
- The patient must be completely incapable of standing up from a regular armchair or any chair in their home. (The fact that a patient has difficulty or is even incapable of getting up from a chair, particularly a low chair, is not sufficient justification for a seat lift mechanism. Almost all patients who are capable of ambulating can get out of an ordinary chair if the seat height is appropriate and the chair has arms.)
- Once standing the patient must have the ability to ambulate (walk).

USHL notes that the prescription issued by the doctor does not indicate that the Petitioner has any of the conditions for which a lift seat mechanism might be medically necessary or that the lift seat mechanism is part of a course of treatment.

USHL recognizes that it did pay for a lift chair for the Petitioner's wife. However, it argues that the two cases are distinct. In 2003 his wife's doctor indicated that she had five bulging disks in her back, severe osteoarthritis, and great difficulty rising from a chair. Therefore, USHL concluded that she meet the criteria for the lift chair.

USHL says that based on the prescription issued by the Petitioner's doctor and the two letters from the Petitioner's son, it concluded the Petitioner did not meet established criteria for a lift chair.

#### Commissioner's Review

It should be noted for the record that the Petitioner is past age 65 and is retired. The Commissioner therefore assumes that the Petitioner is covered under Medicare as the primary payor for his healthcare needs, including DME. However, there is nothing in the record about any coverage other than what has been purchased on his behalf from USHL. It is USHL's adverse

determination that is at issue in this matter, and the Commissioner has therefore limited his review, accordingly.

USHL determined that the Petitioner's lift chair was not medically necessary based on criteria established by Medicare. This is a common practice in the insurance industry since Medicare sets the industry standard for durable medical equipment (DME) coverage.

The Medicare criteria require that the patient have severe arthritis of the hip or knee or have a severe muscular disease. Neither the prescription for the lift chair from the Petitioner's doctor nor any other information provided in this case mention arthritis or muscular disease; the exact nature of the Petitioner's ailment is not revealed in the record. Therefore, from this record the Petitioner does not meet USHL's criteria for a lift chair.

The Petitioner does not understand why his wife's chair was covered by USHL and his was not, even though his condition is more severe than hers. However, the record indicates that she suffered from arthritis and met USHL's criteria for the lift chair when, after an initial denial by USHL, she submitted additional information. It appears that the Petitioner and his wife have different conditions and her condition met the Medicare criteria.

The Commissioner concludes, based on the information provided, that the Petitioner's condition has not been shown to meet the criteria for a lift chair and therefore the device is not medically necessary for his condition.

## **V ORDER**

The Commissioner upholds USHL's adverse determination of March 20, 2008. USHL is not required to cover the Petitioner's lift chair since it has not been shown to be medically necessary and is therefore not a covered benefit under the certificate.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of

Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.